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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/412,020      | 10/06/1999  | Thomas W. Tripp      | 90030-9             | 9128             |

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BRIGGS AND MORGAN, P.A.  
2400 IDS CENTER  
MINNEAPOLIS, MN 55402

EXAMINER

BERGIN, JAMES S

ART UNIT PAPER NUMBER

3624

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/412,020

Applicant(s)

TRIPP, THOMAS W

Examiner

James S. Bergin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 3-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of the invention of claims 1 and 2 in the response filed 2/3/2003 is noted. However this response refers to the election of the species of claims 1 and 2, which is incorrect because a restriction requirement rather than an election of species requirement was mailed to the applicant on 9/27/2002. The applicant's representative should correct this matter in the next response indicating the election of the invention of claims 1 and 2 and whether the election is with or without traverse.

### ***Drawings***

2. New corrected drawings are required in this application (see the NOTICE OF DRAFTPERSON'S PATENT DRAWING REVIEW, Form PTO 948, which accompanies this action). Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 2 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 2, it is unclear whether these claims are method claims or system claims. The preamble appears to be to a data processing method yet the body of the claims lack clearly defined method steps.

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 2, line 4, "if any" renders the claim indefinite.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 and 2 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims do not positively claim a processor or computing device performing the steps of the method and could be performed by an individual or individuals without a computer.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,112,188 A (Hartnett).

Hartnett discloses an indexed debt instrument with the interest rates being expressed in "real" terms and with the outstanding balance being periodically readjusted for inflation (column 61, lines 5 - 10). Hartnett further discloses that if a financial institution accepts indexed deposits, account holders have an inflation hedge. Additionally Hartnett discloses that if such a financial institution were to lend the indexed deposits to enterprises as indexed debt with an interest rate markup, the funds would also be hedged against inflation (column 61, lines 10 -18).

Hartnett does not specifically disclose issuance of the "Class A" and "Class R" certificates, as in applicants claim 1, or the issuance of additional subordinate classes of regular certificates, as in the applicant's claim 2.

However, the issuance of "Class A" and "Class R" and other additional subordinate classes of regular certificates encompasses nothing more than that which was well within the knowledge and skill level of one of ordinary skill in the art at the time that the invention was made. To issue Class A and Class R and other subordinate

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regular certificates as a method of securitizing Hartnett's debt instrument would have been well within the knowledge and skill level of one of ordinary skill in the art at the time that the invention, the exact form of the certificates being chosen to match a particular financial circumstance or environment.

### ***Conclusion***

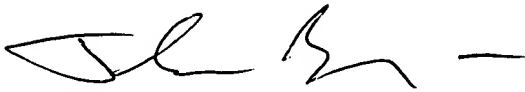
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lange (US 6,321,212 B1) and Leon et al. (US 6,052,673 A) are cited to provide further examples of inflation linked debt.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Bergin whose telephone number is 703 308-8549. The examiner can normally be reached on Monday-Thursday 8.30-6.00 and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703 308-1065. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications and 703 305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.



JSB

April 18, 2003



DR. GEOFFREY R. AKERS, P.E.  
PRIMARY EXAMINER